

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CR-12-0235 YGR
)	
Plaintiff,)	Pre-Trial Conference Order No. 3 Re
)	Motions in Limine
v.)	
)	TRIAL DATE: June 17, 2012
KHUSAR MOBLEY,)	PRETRIAL: May 31, 2012
)	TIME: 8:30 a.m.
Defendant.)	

The Court, having heard argument on the parties motions in limine, and for good cause shown, hereby orders as follows:

1. The government's Motion in Limine to exclude the defense from referencing the propriety of the shooting of defendants is **GRANTED**. However, the defendant shall be able to argue that in the video and audio the police do not identify themselves until after the defendants have left the car and are running away. Additionally, the uncover officer's statement "Shoot the motherfucker, Coop" is admissible under FRE 401 and 403.

2. The Defendant's Motion in Limine to exclude any references to Khusar Mobley's co-defendants having pleaded guilty to any offense in this case is **GRANTED**.

3. The Court reserves judgment on both of the parties's Motions in Limine to exclude FRE 608 and 609 evidence until such time as the witness with FRE 608 or 609 issues arise. These motions relate to one of the informants and defendant.

1 4. The Defendant's Motion in Limine to Exclude Evidence of his involvement in the
2 robbery at Yum Yum Donuts shop is **DENIED** to the extent that defendant raises the issue of his state of
3 mind, specifically intent, at trial. The Court has conducted the four-part analysis pursuant to Federal
4 Rule of Evidence 404(b), *United States v. Chea*, 231 F.3d 531, 534 (9th Cir. 2000) (evidence of prior
5 armed robbery admitted) and *Dowling v United States*, 493 U.S. 342, 348-49 (1990) and concluded that
6 the proffered evidence under such circumstances is proper. The Court further finds that under these
7 circumstances the probative value is substantially outweighed by the prejudicial impact under Rule 403.
8 If defendant does not put his state of mind at issue, the balance shifts and the evidence will not be
9 allowed. The Court will entertain proposals for limiting instructions to be served and filed by Thursday,
10 June 13, 2013.

11 **IT IS SO ORDERED.**

12 Dated: June 10, 2013


HON. YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT